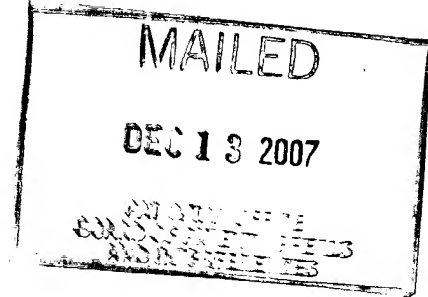


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ALAN CHRIS BERKEMA,
JEFF MORGAN, PAT STOLTZ
AND TODD FISCHER

Application No. 09/897,647



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on December 5, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

On July 31, 2007, an Order Returning Undocketed Appeal was mailed and the application was returned to the Examiner. The application has since been returned to the Board of Patent and Interferences. In the Examiner's Answer mailed August 27, 2007, the Examiner states in the **(3) Status of Claims** section, "The statement of the

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status of claims contained in the brief is correct.” However in section **(4) Status of Amendments After Final**, the Examiner states “Claims pending, finally rejected and appealed 1-5, 7-21, 23-25.” This is not the same listing as stated by Appellant in the Appeal Brief filed April, 11, 2006, which stated under the **STATUS OF CLAIMS** section, “Claims pending, finally rejected and appealed 1-5, 7-24, and 23-35.”


Clarification is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) for mailing a PTOI-90 clarifying the claims on Appeal and if the examiner disagrees with the statement of the status of the claims contained in the brief, the examiner must set forth a correct statement of the status of all the claims in the proceeding; and,
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 
PATRICK J. NOLAN
Deputy Chief Appeals Administrator
(571) 272-9797

PJN/dal

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